

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1307 be amended to read as follows:

- 1 Page 1, delete lines 1 through 17.
- 2 Delete pages 2 through 6.
- 3 Page 7, delete lines 1 through 24.
- 4 Page 16, delete lines 15 through 42, begin a new line block indented
- 5 and insert:
- 6 **"(9) With respect to injuries occurring on and after July 1,**
- 7 **2007, for each degree of permanent impairment from one (1)**
- 8 **to ten (10), one thousand five hundred dollars (\$1,500) per**
- 9 **degree; for each degree of permanent impairment from eleven**
- 10 **(11) to thirty-five (35), one thousand seven hundred dollars**
- 11 **(\$1,700) per degree; for each degree of permanent impairment**
- 12 **from thirty-six (36) to fifty (50), two thousand seven hundred**
- 13 **dollars (\$2,700) per degree; for each degree of permanent**
- 14 **impairment above fifty (50), three thousand three hundred**
- 15 **dollars (\$3,300) per degree.**
- 16 ~~(c)~~ **(k)** The average weekly wages used in the determination of
- 17 compensation for permanent partial impairment under subsections ~~(c)~~
- 18 **(i)** and ~~(d)~~ **(j)** shall not exceed the following:
- 19 (1) With respect to injuries occurring on or after July 1, 1991, and
- 20 before July 1, 1992, four hundred ninety-two dollars (\$492).
- 21 (2) With respect to injuries occurring on or after July 1, 1992, and
- 22 before July 1, 1993, five hundred forty dollars (\$540).
- 23 (3) With respect to injuries occurring on or after July 1, 1993, and
- 24 before July 1, 1994, five hundred ninety-one dollars (\$591).
- 25 (4) With respect to injuries occurring on or after July 1, 1994, and

before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to injuries occurring on or after July 1, 2002, **and before July 1, 2007**, eight hundred eighty-two dollars (\$882).

(11) With respect to injuries occurring on or after July 1, 2007, nine hundred fifty-four dollars (\$954).

SECTION 2. IC 22-3-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. (a) ~~In computing the compensation under this law with respect to injuries occurring on and after April 1, 1963; and prior to April 1, 1965, the average weekly wages shall be considered to be not more than seventy dollars (\$70) nor less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1965; and prior to April 1, 1967, the average weekly wages shall be considered to be not more than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1967; and prior to April 1, 1969; the average weekly wages shall be considered to be not more than eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1969; and prior to July 1, 1971; the average weekly wages shall be considered to be not more than ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after July 1, 1971; and prior to July 1, 1974; the average weekly wages shall be considered to be: (A) Not more than: (1) one hundred dollars (\$100) if no dependents; (2) one hundred five dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110) if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three (3) dependents; (5) one hundred twenty dollars (\$120) if four (4) dependents; and (6) one hundred twenty-five dollars (\$125) if five (5) or more dependents; and (B) Not less than thirty-five dollars (\$35). In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to injuries occurring on and after July 1, 1974; and before July 1, 1976; the average weekly wages shall be considered to be (A) not more than one hundred thirty-five dollars (\$135); and (B) not less than seventy-five dollars (\$75). However, the weekly compensation payable~~

1 shall in no case exceed the average weekly wages of the employee at
2 the time of the injury. In computing compensation for temporary total
3 disability, temporary partial disability and total permanent disability
4 under this law with respect to injuries occurring on and after July 1,
5 1976, and before July 1, 1977, the average weekly wages shall be
6 considered to be (1) not more than one hundred fifty-six dollars (\$156)
7 and (2) not less than seventy-five dollars (\$75). However, the weekly
8 compensation payable shall not exceed the average weekly wages of
9 the employee at the time of the injury. In computing compensation for
10 temporary total disability, temporary partial disability, and total
11 permanent disability, with respect to injuries occurring on and after July
12 1, 1977, and before July 1, 1979, the average weekly wages are
13 considered to be (1) not more than one hundred eighty dollars (\$180);
14 and (2) not less than seventy-five dollars (\$75). However, the weekly
15 compensation payable may not exceed the average weekly wages of the
16 employee at the time of the injury. In computing compensation for
17 temporary total disability, temporary partial disability, and total
18 permanent disability, with respect to injuries occurring on and after July
19 1, 1979, and before July 1, 1980, the average weekly wages are
20 considered to be (1) not more than one hundred ninety-five dollars
21 (\$195); and (2) not less than seventy-five dollars (\$75). However, the
22 weekly compensation payable shall not exceed the average weekly
23 wages of the employee at the time of the injury. In computing
24 compensation for temporary total disability, temporary partial
25 disability, and total permanent disability, with respect to injuries
26 occurring on and after July 1, 1980, and before July 1, 1983, the
27 average weekly wages are considered to be (1) not more than two
28 hundred ten dollars (\$210); and (2) not less than seventy-five dollars
29 (\$75). However, the weekly compensation payable shall not exceed the
30 average weekly wages of the employee at the time of the injury. In
31 computing compensation for temporary total disability, temporary
32 partial disability, and total permanent disability, with respect to injuries
33 occurring on and after July 1, 1983, and before July 1, 1984, the
34 average weekly wages are considered to be (1) not more than two
35 hundred thirty-four dollars (\$234) and (2) not less than seventy-five
36 dollars (\$75). However, the weekly compensation payable shall not
37 exceed the average weekly wages of the employee at the time of the
38 injury. In computing compensation for temporary total disability,
39 temporary partial disability, and total permanent disability, with respect
40 to injuries occurring on and after July 1, 1984, and before July 1, 1985,
41 the average weekly wages are considered to be (1) not more than two
42 hundred forty-nine dollars (\$249) and (2) not less than seventy-five
43 dollars (\$75). However, the weekly compensation payable shall not
44 exceed the average weekly wages of the employee at the time of the
45 injury. In computing compensation for temporary total disability,
46 temporary partial disability, and total permanent disability, with respect
47 to injuries occurring on and after July 1, 1985, and before July 1, 1986,

1 the average weekly wages are considered to be:

2 (1) not more than two hundred sixty-seven dollars (\$267); and

3 (2) not less than seventy-five dollars (\$75).

4 However, the weekly compensation payable shall not exceed the
5 average weekly wages of the employee at the time of the injury.

6 **(b)** In computing compensation for temporary total disability,
7 temporary partial disability, and total permanent disability, with respect
8 to injuries occurring on and after July 1, 1986, and before July 1, 1988,
9 the average weekly wages are considered to be:

10 (1) not more than two hundred eighty-five dollars (\$285); and

11 (2) not less than seventy-five dollars (\$75).

12 However, the weekly compensation payable shall not exceed the
13 average weekly wages of the employee at the time of the injury.

14 **(c)** In computing compensation for temporary total disability,
15 temporary partial disability, and total permanent disability, with respect
16 to injuries occurring on and after July 1, 1988, and before July 1, 1989,
17 the average weekly wages are considered to be:

18 (1) not more than three hundred eighty-four dollars (\$384); and

19 (2) not less than seventy-five dollars (\$75).

20 However, the weekly compensation payable shall not exceed the
21 average weekly wages of the employee at the time of the injury.

22 **(d)** In computing compensation for temporary total disability,
23 temporary partial disability, and total permanent disability, with respect
24 to injuries occurring on and after July 1, 1989, and before July 1, 1990,
25 the average weekly wages are considered to be:

26 (1) not more than four hundred eleven dollars (\$411); and

27 (2) not less than seventy-five dollars (\$75).

28 However, the weekly compensation payable shall not exceed the
29 average weekly wages of the employee at the time of the injury.

30 **(e)** In computing compensation for temporary total disability,
31 temporary partial disability, and total permanent disability, with respect
32 to injuries occurring on and after July 1, 1990, and before July 1, 1991,
33 the average weekly wages are considered to be:

34 (1) not more than four hundred forty-one dollars (\$441); and

35 (2) not less than seventy-five dollars (\$75).

36 However, the weekly compensation payable shall not exceed the
37 average weekly wages of the employee at the time of the injury.

38 **(f)** In computing compensation for temporary total disability,
39 temporary partial disability, and total permanent disability, with respect
40 to injuries occurring on and after July 1, 1991, and before July 1, 1992,
41 the average weekly wages are considered to be:

42 (1) not more than four hundred ninety-two dollars (\$492); and

43 (2) not less than seventy-five dollars (\$75).

44 However, the weekly compensation payable shall not exceed the
45 average weekly wages of the employee at the time of the injury.

46 **(g)** In computing compensation for temporary total disability,
47 temporary partial disability, and total permanent disability, with respect

to injuries occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

- (1) not more than five hundred forty dollars (\$540); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

- (1) not more than five hundred ninety-one dollars (\$591); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

- (1) not more than six hundred forty-two dollars (\$642); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

~~(b)~~ **(j)** In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

- (1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:

- (A) not more than six hundred seventy-two dollars (\$672); and
- (B) not less than seventy-five dollars (\$75);

- (2) with respect to injuries occurring on and after July 1, 1998, and before July 1, 1999:

- (A) not more than seven hundred two dollars (\$702); and
- (B) not less than seventy-five dollars (\$75);

- (3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

- (A) not more than seven hundred thirty-two dollars (\$732); and
- (B) not less than seventy-five dollars (\$75);

- (4) with respect to injuries occurring on and after July 1, 2000, and before July 1, 2001:

- (A) not more than seven hundred sixty-two dollars (\$762); and
- (B) not less than seventy-five dollars (\$75);

- (5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

- (A) not more than eight hundred twenty-two dollars (\$822); and

- (B) not less than seventy-five dollars (\$75); and

- (6) with respect to injuries occurring on and after July 1, 2002,

and before July 1, 2007:

(A) not more than eight hundred eighty-two dollars (\$882);

and

(B) not less than seventy-five dollars (\$75); **and**

(7) with respect to injuries occurring on and after July 1, 2007:

(A) not more than nine hundred fifty-four dollars (\$954);

and

(B) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(c) For the purpose of this section only and with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, only, the term "dependent" as used in this section shall mean persons defined as presumptive dependents under section 19 of this chapter, except that such dependency shall be determined as of the date of the injury to the employee.

(d) With respect to any injury occurring on and after April 1, 1955, and prior to April 1, 1957, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provisions of this law or under any combination of its provisions shall not exceed twelve thousand five hundred dollars (\$12,500) in any case. With respect to any injury occurring on and after April 1, 1957 and prior to April 1, 1963, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed fifteen thousand dollars (\$15,000) in any case. With respect to any injury occurring on and after April 1, 1963, and prior to April 1, 1965, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed sixteen thousand five hundred dollars (\$16,500) in any case. With respect to any injury occurring on and after April 1, 1965, and prior to April 1, 1967, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed twenty thousand dollars (\$20,000) in any case. With respect to any injury occurring on and after April 1, 1967, and prior to July 1, 1971, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed twenty-five thousand dollars (\$25,000) in any case. With respect to any injury occurring on and after July 1, 1971, and prior to July 1, 1974, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed thirty thousand dollars (\$30,000) in any case. With respect to any injury occurring on and after July 1, 1974, and before July 1, 1976, the maximum compensation exclusive of

1 medical benefits which shall be paid for an injury under any provision
 2 of this law or any combination of provisions shall not exceed forty-five
 3 thousand dollars (\$45,000) in any case. With respect to an injury
 4 occurring on and after July 1, 1976, and before July 1, 1977, the
 5 maximum compensation, exclusive of medical benefits, which shall be
 6 paid for any injury under any provision of this law or any combination
 7 of provisions shall not exceed fifty-two thousand dollars (\$52,000) in
 8 any case. With respect to any injury occurring on and after July 1,
 9 1977, and before July 1, 1979, the maximum compensation, exclusive
 10 of medical benefits, which may be paid for an injury under any
 11 provision of this law or any combination of provisions may not exceed
 12 sixty thousand dollars (\$60,000) in any case. With respect to any injury
 13 occurring on and after July 1, 1979, and before July 1, 1980, the
 14 maximum compensation, exclusive of medical benefits, which may be
 15 paid for an injury under any provisions of this law or any combination
 16 of provisions may not exceed sixty-five thousand dollars (\$65,000) in
 17 any case. With respect to any injury occurring on and after July 1,
 18 1980, and before July 1, 1983, the maximum compensation, exclusive
 19 of medical benefits, which may be paid for an injury under any
 20 provisions of this law or any combination of provisions may not exceed
 21 seventy thousand dollars (\$70,000) in any case. With respect to any
 22 injury occurring on and after July 1, 1983, and before July 1, 1984, the
 23 maximum compensation, exclusive of medical benefits, which may be
 24 paid for an injury under any provisions of this law or any combination
 25 of provisions may not exceed seventy-eight thousand dollars (\$78,000)
 26 in any case. With respect to any injury occurring on and after July 1,
 27 1984, and before July 1, 1985, the maximum compensation, exclusive
 28 of medical benefits, which may be paid for an injury under any
 29 provisions of this law or any combination of provisions may not exceed
 30 eighty-three thousand dollars (\$83,000) in any case.

31 **(k)** With respect to any injury occurring on and after July 1, 1985,
 32 and before July 1, 1986, the maximum compensation, exclusive of
 33 medical benefits, which may be paid for an injury under any provisions
 34 of this law or any combination of provisions may not exceed
 35 eighty-nine thousand dollars (\$89,000) in any case.

36 **(l)** With respect to any injury occurring on and after July 1, 1986,
 37 and before July 1, 1988, the maximum compensation, exclusive of
 38 medical benefits, which may be paid for an injury under any provisions
 39 of this law or any combination of provisions may not exceed
 40 ninety-five thousand dollars (\$95,000) in any case.

41 **(m)** With respect to any injury occurring on and after July 1, 1988,
 42 and before July 1, 1989, the maximum compensation, exclusive of
 43 medical benefits, which may be paid for an injury under any provisions
 44 of this law or any combination of provisions may not exceed one
 45 hundred twenty-eight thousand dollars (\$128,000) in any case.

46 **(n)** With respect to any injury occurring on and after July 1, 1989,
 47 and before July 1, 1990, the maximum compensation, exclusive of

1 medical benefits, which may be paid for an injury under any provisions
 2 of this law or any combination of provisions may not exceed one
 3 hundred thirty-seven thousand dollars (\$137,000) in any case.

4 **(o)** With respect to any injury occurring on and after July 1, 1990,
 5 and before July 1, 1991, the maximum compensation, exclusive of
 6 medical benefits, which may be paid for an injury under any provisions
 7 of this law or any combination of provisions may not exceed one
 8 hundred forty-seven thousand dollars (\$147,000) in any case.

9 **(p)** With respect to any injury occurring on and after July 1, 1991,
 10 and before July 1, 1992, the maximum compensation, exclusive of
 11 medical benefits, that may be paid for an injury under any provisions
 12 of this law or any combination of provisions may not exceed one
 13 hundred sixty-four thousand dollars (\$164,000) in any case.

14 **(q)** With respect to any injury occurring on and after July 1, 1992,
 15 and before July 1, 1993, the maximum compensation, exclusive of
 16 medical benefits, that may be paid for an injury under any provisions
 17 of this law or any combination of provisions may not exceed one
 18 hundred eighty thousand dollars (\$180,000) in any case.

19 **(r)** With respect to any injury occurring on and after July 1, 1993,
 20 and before July 1, 1994, the maximum compensation, exclusive of
 21 medical benefits, that may be paid for an injury under any provisions
 22 of this law or any combination of provisions may not exceed one
 23 hundred ninety-seven thousand dollars (\$197,000) in any case.

24 **(s)** With respect to any injury occurring on and after July 1, 1994,
 25 and before July 1, 1997, the maximum compensation, exclusive of
 26 medical benefits, which may be paid for an injury under any provisions
 27 of this law or any combination of provisions may not exceed two
 28 hundred fourteen thousand dollars (\$214,000) in any case.

29 ~~(e)~~ **(t)** The maximum compensation, exclusive of medical benefits,
 30 that may be paid for an injury under any provision of this law or any
 31 combination of provisions may not exceed the following amounts in
 32 any case:

33 (1) With respect to an injury occurring on and after July 1, 1997,
 34 and before July 1, 1998, two hundred twenty-four thousand
 35 dollars (\$224,000).

36 (2) With respect to an injury occurring on and after July 1, 1998,
 37 and before July 1, 1999, two hundred thirty-four thousand dollars
 38 (\$234,000).

39 (3) With respect to an injury occurring on and after July 1, 1999,
 40 and before July 1, 2000, two hundred forty-four thousand dollars
 41 (\$244,000).

42 (4) With respect to an injury occurring on and after July 1, 2000,
 43 and before July 1, 2001, two hundred fifty-four thousand dollars
 44 (\$254,000).

45 (5) With respect to an injury occurring on and after July 1, 2001,
 46 and before July 1, 2002, two hundred seventy-four thousand
 47 dollars (\$274,000).

(6) With respect to an injury occurring on and after July 1, 2002, **and before July 1, 2007**, two hundred ninety-four thousand dollars (\$294,000).

(7) With respect to an injury occurring on and after July 1, 2007, three hundred eighteen thousand dollars (\$318,000).

SECTION 3. IC 22-3-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to work;

- 1 (2) the employee has died;
- 2 (3) the employee has refused to undergo a medical examination
- 3 under section 20 of this chapter;
- 4 (4) the employee has received five hundred (500) weeks of
- 5 temporary total disability benefits or has been paid the maximum
- 6 compensation allowable under section 19 of this chapter; or
- 7 (5) the employee is unable or unavailable to work for reasons
- 8 unrelated to the compensable disease.

9 In all other cases the employer must notify the employee in writing of
 10 the employer's intent to terminate the payment of temporary total
 11 disability benefits, and of the availability of employment, if any, on a
 12 form approved by the board. If the employee disagrees with the
 13 proposed termination, the employee must give written notice of
 14 disagreement to the board and the employer within seven (7) days after
 15 receipt of the notice of intent to terminate benefits. If the board and
 16 employer do not receive a notice of disagreement under this section, the
 17 employee's temporary total disability benefits shall be terminated. Upon
 18 receipt of the notice of disagreement, the board shall immediately
 19 contact the parties, which may be by telephone or other means and
 20 attempt to resolve the disagreement. If the board is unable to resolve the
 21 disagreement within ten (10) days of receipt of the notice of
 22 disagreement, the board shall immediately arrange for an evaluation of
 23 the employee by an independent medical examiner. The independent
 24 medical examiner shall be selected by mutual agreement of the parties
 25 or, if the parties are unable to agree, appointed by the board under
 26 IC 22-3-4-11. If the independent medical examiner determines that the
 27 employee is no longer temporarily disabled or is still temporarily
 28 disabled but can return to employment that the employer has made
 29 available to the employee, or if the employee fails or refuses to appear
 30 for examination by the independent medical examiner, temporary total
 31 disability benefits may be terminated. If either party disagrees with the
 32 opinion of the independent medical examiner, the party shall apply to
 33 the board for a hearing under section 27 of this chapter.

34 (c) An employer is not required to continue the payment of
 35 temporary total disability benefits for more than fourteen (14) days after
 36 the employer's proposed termination date unless the independent
 37 medical examiner determines that the employee is temporarily disabled
 38 and unable to return to any employment that the employer has made
 39 available to the employee.

40 (d) If it is determined that as a result of this section temporary total
 41 disability benefits were overpaid, the overpayment shall be deducted
 42 from any benefits due the employee under this section and, if there are
 43 no benefits due the employee or the benefits due the employee do not
 44 equal the amount of the overpayment, the employee shall be
 45 responsible for paying any overpayment which cannot be deducted
 46 from benefits due the employee.

47 (e) ~~For disablements occurring on and after April 1, 1951, and prior~~

1 to July 1, 1971, from occupational disease resulting in temporary total
 2 disability for any work there shall be paid to the disabled employee
 3 during such temporary total disability a weekly compensation equal to
 4 sixty percent (60%) of the employee's average weekly wages for a
 5 period not to exceed five hundred (500) weeks. Compensation shall be
 6 allowed for the first seven (7) calendar days only if the disability
 7 continues for longer than twenty-eight (28) days.

8 For disablements occurring on and after July 1, 1971, and prior to
 9 July 1, 1974, from occupational disease resulting in temporary total
 10 disability for any work there shall be paid to the disabled employee
 11 during such temporary total disability a weekly compensation equal to
 12 sixty percent (60%) of the employee's average weekly wages, as
 13 defined in section 19 of this chapter, for a period not to exceed five
 14 hundred (500) weeks. Compensation shall be allowed for the first seven
 15 (7) calendar days only if the disability continues for longer than
 16 twenty-eight (28) days.

17 For disablements occurring on and after July 1, 1974, and before
 18 July 1, 1976, from occupational disease resulting in temporary total
 19 disability for any work there shall be paid to the disabled employee
 20 during such temporary total disability a weekly compensation equal to
 21 sixty-six and two-thirds percent (66 2/3%) of the employee's average
 22 weekly wages, up to one hundred thirty-five dollars (\$135) average
 23 weekly wages, as defined in section 19 of this chapter, for a period not
 24 to exceed five hundred (500) weeks. Compensation shall be allowed for
 25 the first seven (7) calendar days only if the disability continues for
 26 longer than twenty-one (21) days.

27 (e) For disablements occurring on and after July 1, 1976, from
 28 occupational disease resulting in temporary total disability for any work
 29 there shall be paid to the disabled employee during the temporary total
 30 disability weekly compensation equal to sixty-six and two-thirds
 31 percent (66 2/3%) of the employee's average weekly wages, as defined
 32 in section 19 of this chapter, for a period not to exceed five hundred
 33 (500) weeks. Compensation shall be allowed for the first seven (7)
 34 calendar days only if the disability continues for longer than twenty-one
 35 (21) days.

36 (f) For disablements occurring on and after April 1, 1951, and prior
 37 to July 1, 1971, from occupational disease resulting in temporary partial
 38 disability for work there shall be paid to the disabled employee during
 39 such disability a weekly compensation equal to sixty percent (60%) of
 40 the difference between the employee's average weekly wages and the
 41 weekly wages at which the employee is actually employed after the
 42 disablement, for a period not to exceed three hundred (300) weeks.
 43 Compensation shall be allowed for the first seven (7) calendar days
 44 only if the disability continues for longer than twenty-eight (28) days.
 45 In case of partial disability after the period of temporary total disability,
 46 the later period shall be included as part of the maximum period
 47 allowed for partial disability.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(f) For disablements occurring on and after July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which ~~he~~ **the employee** is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(g) For disabilities occurring on and after April 1, 1951, and prior to April 1, 1955, from occupational disease in the following schedule, the employee shall receive in lieu of all other compensation, on account of such disabilities, a weekly compensation of sixty percent (60%) of the employee's average weekly wage; for disabilities occurring on and after April 1, 1955, and prior to July 1, 1971, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages.

For disabilities occurring on and after July 1, 1971, and before July 1, 1977, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of his average weekly wages not to exceed one hundred dollars (\$100) average weekly wages; for the period stated for such disabilities respectively.

For disabilities occurring on and after July 1, 1977, and before July 1, 1979, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of the occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly

wages; not to exceed one hundred twenty-five dollars (\$125) average weekly wages; for the period stated for the disabilities.

(g) For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the ~~following~~ schedule **set forth in subsection (j)**, the employee shall receive in addition to disability benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities.

(h) For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the ~~following~~ schedule **set forth in subsection (j)**, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the disabilities.

(i) For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the ~~following~~ schedule **set forth in subsection (j)**, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the disabilities.

(j) For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire

1 finger. The loss of not more than one (1) phalange of a thumb or
2 toe shall be considered as the loss of one-half (1/2) of the thumb
3 or toe and compensation shall be paid for one-half (1/2) of the
4 period for the loss of the entire thumb or toe. The loss of not more
5 than two (2) phalanges of a finger shall be considered as the loss
6 of one-half (1/2) the finger and compensation shall be paid for
7 one-half (1/2) of the period for the loss of the entire finger.

8 (2) Loss of Use: The total permanent loss of the use of an arm,
9 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
10 as the equivalent of the loss by separation of the arm, hand,
11 thumb, finger, leg, foot, toe, or phalange and the compensation
12 shall be paid for the same period as for the loss thereof by
13 separation.

14 (3) Partial Loss of Use: For the permanent partial loss of the use
15 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,
16 compensation shall be paid for the proportionate loss of the use of
17 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

18 (4) For disablements for occupational disease resulting in total
19 permanent disability, five hundred (500) weeks.

20 (5) For the loss of both hands, or both feet, or the total sight of
21 both eyes, or any two (2) of such losses resulting from the same
22 disablement by occupational disease, five hundred (500) weeks.

23 (6) For the permanent and complete loss of vision by enucleation
24 of an eye or its reduction to one-tenth (1/10) of normal vision with
25 glasses, one hundred fifty (150) weeks, and for any other
26 permanent reduction of the sight of an eye, compensation shall be
27 paid for a period proportionate to the degree of such permanent
28 reduction without correction or glasses. However, when such
29 permanent reduction without correction or glasses would result in
30 one hundred percent (100%) loss of vision, but correction or
31 glasses would result in restoration of vision, then compensation
32 shall be paid for fifty percent (50%) of such total loss of vision
33 without glasses plus an additional amount equal to the
34 proportionate amount of such reduction with glasses, not to
35 exceed an additional fifty percent (50%).

36 (7) For the permanent and complete loss of hearing, two hundred
37 (200) weeks.

38 (8) In all other cases of permanent partial impairment,
39 compensation proportionate to the degree of such permanent
40 partial impairment, in the discretion of the worker's compensation
41 board, not exceeding five hundred (500) weeks.

42 (9) In all cases of permanent disfigurement, which may impair the
43 future usefulness or opportunities of the employee, compensation
44 in the discretion of the worker's compensation board, not
45 exceeding two hundred (200) weeks, except that no compensation
46 shall be payable under this paragraph where compensation shall
47 be payable under subdivisions (1) through (8). Where

1 compensation for temporary total disability has been paid, this
 2 amount of compensation shall be deducted from any
 3 compensation due for permanent disfigurement.

4 **(k)** With respect to disablements in the following schedule occurring
 5 on and after July 1, 1991, the employee shall receive in addition to
 6 temporary total disability benefits, not exceeding one hundred
 7 twenty-five (125) weeks on account of the disablement, compensation
 8 in an amount determined under the following schedule to be paid
 9 weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the
 10 employee's average weekly wages during the fifty-two (52) weeks
 11 immediately preceding the week in which the disablement occurred:

12 (1) Amputation: For the loss by separation of the thumb, twelve
 13 (12) degrees of permanent impairment; of the index finger, eight
 14 (8) degrees of permanent impairment; of the second finger, seven
 15 (7) degrees of permanent impairment; of the third or ring finger,
 16 six (6) degrees of permanent impairment; of the fourth or little
 17 finger, four (4) degrees of permanent impairment; of the hand by
 18 separation below the elbow joint, forty (40) degrees of permanent
 19 impairment; of the arm above the elbow, fifty (50) degrees of
 20 permanent impairment; of the big toe, twelve (12) degrees of
 21 permanent impairment; of the second toe, six (6) degrees of
 22 permanent impairment; of the third toe, four (4) degrees of
 23 permanent impairment; of the fourth toe, three (3) degrees of
 24 permanent impairment; of the fifth or little toe, two (2) degrees of
 25 permanent impairment; of separation of the foot below the knee
 26 joint, thirty-five (35) degrees of permanent impairment; and of the
 27 leg above the knee joint, forty-five (45) degrees of permanent
 28 impairment.

29 (2) Amputations occurring on or after July 1, 1997: For the loss
 30 by separation of any of the body parts described in subdivision (1)
 31 on or after July 1, 1997, the dollar values per degree applying on
 32 the date of the injury as described in subsection ~~(h)~~ **(l)** shall be
 33 multiplied by two (2). However, the doubling provision of this
 34 subdivision does not apply to a loss of use that is not a loss by
 35 separation.

36 (3) The loss of more than one (1) phalange of a thumb or toe shall
 37 be considered as the loss of the entire thumb or toe. The loss of
 38 more than two (2) phalanges of a finger shall be considered as the
 39 loss of the entire finger. The loss of not more than one (1)
 40 phalange of a thumb or toe shall be considered as the loss of
 41 one-half (1/2) of the degrees of permanent impairment for the loss
 42 of the entire thumb or toe. The loss of not more than one (1)
 43 phalange of a finger shall be considered as the loss of one-third
 44 (1/3) of the finger and compensation shall be paid for one-third
 45 (1/3) of the degrees payable for the loss of the entire finger. The
 46 loss of more than one (1) phalange of the finger but not more than
 47 two (2) phalanges of the finger shall be considered as the loss of

1 one-half (1/2) of the finger and compensation shall be paid for
2 one-half (1/2) of the degrees payable for the loss of the entire
3 finger.

4 (4) For the loss by separation of both hands or both feet or the
5 total sight of both eyes or any two (2) such losses in the same
6 accident, one hundred (100) degrees of permanent impairment.

7 (5) For the permanent and complete loss of vision by enucleation
8 or its reduction to one-tenth (1/10) of normal vision with glasses,
9 thirty-five (35) degrees of permanent impairment.

10 (6) For the permanent and complete loss of hearing in one (1) ear,
11 fifteen (15) degrees of permanent impairment, and in both ears,
12 forty (40) degrees of permanent impairment.

13 (7) For the loss of one (1) testicle, ten (10) degrees of permanent
14 impairment; for the loss of both testicles, thirty (30) degrees of
15 permanent impairment.

16 (8) Loss of use: The total permanent loss of the use of an arm, a
17 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
18 considered as the equivalent of the loss by separation of the arm,
19 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
20 shall be paid in the same amount as for the loss by separation.
21 However, the doubling provision of subdivision (2) does not apply
22 to a loss of use that is not a loss by separation.

23 (9) Partial loss of use: For the permanent partial loss of the use of
24 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
25 phalange, compensation shall be paid for the proportionate loss of
26 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

27 (10) For disablements resulting in total permanent disability, the
28 amount payable for impairment or five hundred (500) weeks of
29 compensation, whichever is greater.

30 (11) For any permanent reduction of the sight of an eye less than
31 a total loss as specified in subdivision (5), the compensation shall
32 be paid in an amount proportionate to the degree of a permanent
33 reduction without correction or glasses. However, when a
34 permanent reduction without correction or glasses would result in
35 one hundred percent (100%) loss of vision, then compensation
36 shall be paid for fifty percent (50%) of the total loss of vision
37 without glasses, plus an additional amount equal to the
38 proportionate amount of the reduction with glasses, not to exceed
39 an additional fifty percent (50%).

40 (12) For any permanent reduction of the hearing of one (1) or both
41 ears, less than the total loss as specified in subdivision (6),
42 compensation shall be paid in an amount proportionate to the
43 degree of a permanent reduction.

44 (13) In all other cases of permanent partial impairment,
45 compensation proportionate to the degree of a permanent partial
46 impairment, in the discretion of the worker's compensation board,
47 not exceeding one hundred (100) degrees of permanent

1 impairment.

2 (14) In all cases of permanent disfigurement which may impair the
3 future usefulness or opportunities of the employee, compensation,
4 in the discretion of the worker's compensation board, not
5 exceeding forty (40) degrees of permanent impairment except that
6 no compensation shall be payable under this subdivision where
7 compensation is payable elsewhere in this section.

8 ~~(11)~~ (l) With respect to disablements occurring on and after July 1,
9 1991, compensation for permanent partial impairment shall be paid
10 according to the degree of permanent impairment for the disablement
11 determined under subsection ~~(11)~~ (k) and the following:

12 (1) With respect to disablements occurring on and after July 1,
13 1991, and before July 1, 1992, for each degree of permanent
14 impairment from one (1) to thirty-five (35), five hundred dollars
15 (\$500) per degree; for each degree of permanent impairment from
16 thirty-six (36) to fifty (50), nine hundred dollars (\$900) per
17 degree; for each degree of permanent impairment above fifty (50),
18 one thousand five hundred dollars (\$1,500) per degree.

19 (2) With respect to disablements occurring on and after July 1,
20 1992, and before July 1, 1993, for each degree of permanent
21 impairment from one (1) to twenty (20), five hundred dollars
22 (\$500) per degree; for each degree of permanent impairment from
23 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
24 per degree; for each degree of permanent impairment from
25 thirty-six (36) to fifty (50), one thousand three hundred dollars
26 (\$1,300) per degree; for each degree of permanent impairment
27 above fifty (50), one thousand seven hundred dollars (\$1,700) per
28 degree.

29 (3) With respect to disablements occurring on and after July 1,
30 1993, and before July 1, 1997, for each degree of permanent
31 impairment from one (1) to ten (10), five hundred dollars (\$500)
32 per degree; for each degree of permanent impairment from eleven
33 (11) to twenty (20), seven hundred dollars (\$700) per degree; for
34 each degree of permanent impairment from twenty-one (21) to
35 thirty-five (35), one thousand dollars (\$1,000) per degree; for each
36 degree of permanent impairment from thirty-six (36) to fifty (50),
37 one thousand four hundred dollars (\$1,400) per degree; for each
38 degree of permanent impairment above fifty (50), one thousand
39 seven hundred dollars (\$1,700) per degree.

40 (4) With respect to disablements occurring on and after July 1,
41 1997, and before July 1, 1998, for each degree of permanent
42 impairment from one (1) to ten (10), seven hundred fifty dollars
43 (\$750) per degree; for each degree of permanent impairment from
44 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
45 degree; for each degree of permanent impairment from thirty-six
46 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
47 degree; for each degree of permanent impairment above fifty (50),

one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, **and before July 1, 2007**, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to disablements occurring on and after July 1, 2007, for each degree of permanent impairment from one (1) to ten (10), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand seven hundred dollars (\$1,700) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars (\$2,700) per degree; for each degree of permanent

impairment above fifty (50), three thousand three hundred dollars (\$3,300) per degree.

~~(j)~~ **(m)** The average weekly wages used in the determination of compensation for permanent partial impairment under subsections ~~(g)~~ **(k)** and ~~(h)~~ **(l)** shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to disablements occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to injuries occurring on or after July 1, 2002, **and before July 1, 2007**, eight hundred eighty-two dollars (\$882).

(11) With respect to injuries occurring on or after July 1, 2007, nine hundred fifty-four dollars (\$954).

~~(j)~~ **(n)** If any employee, only partially disabled, refuses employment suitable to ~~his~~ **the employee's** capacity procured for ~~him~~, ~~he~~ **the employee, the employee** shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

~~(k)~~ **(o)** If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which ~~he~~ **the employee** suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment

or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(p) If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, ~~he the~~ **employee** shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection ~~(g)(1), (g)(4), (g)(5), (g)(8), or (g)(9); (k)(1), (k)(4), (k)(5), (k)(8), or (k)(9),~~ but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

~~(m)~~ (q) If an employee receives a permanent disability from occupational disease such as specified in subsection ~~(g)(1), (g)(4), (g)(5), (g)(8), or (g)(9)~~ **(k)(1), (k)(4), (k)(5), (k)(8), or (k)(9)** after having sustained another such permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(n) When an employee has been awarded or is entitled to an award of compensation for a definite period under this chapter for disability from occupational disease, which disablement occurs on and after April 1, 1951, and prior to April 1, 1963, and such employee dies from any other cause than such occupational disease, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter, and

1 compensation, not exceeding five hundred (500) weeks, shall be made
 2 to the employee's dependents of the first class as defined in sections 11
 3 through 14 of this chapter. (r) When an employee has been awarded or
 4 is entitled to an award of compensation for a definite period from an
 5 occupational disease wherein disablement occurs on and after April 1,
 6 1963, and such employee dies from other causes than such occupational
 7 disease, payment of the unpaid balance of such compensation not
 8 exceeding three hundred fifty (350) weeks shall be paid to the
 9 employee's dependents of the second and third class as defined in
 10 sections 11 through 14 of this chapter and compensation, not exceeding
 11 five hundred (500) weeks shall be made to the employee's dependents
 12 of the first class as defined in sections 11 through 14 of this chapter.

13 ~~(p)~~ (s) Any payment made by the employer to the employee during
 14 the period of the employee's disability, or to the employee's dependents,
 15 which, by the terms of this chapter, was not due and payable when
 16 made, may, subject to the approval of the worker's compensation board,
 17 be deducted from the amount to be paid as compensation, but such
 18 deduction shall be made from the distal end of the period during which
 19 compensation must be paid, except in cases of temporary disability.

20 ~~(p)~~ (t) When so provided in the compensation agreement or in the
 21 award of the worker's compensation board, compensation may be paid
 22 semimonthly, or monthly, instead of weekly.

23 ~~(q)~~ (u) When the aggregate payments of compensation awarded by
 24 agreement or upon hearing to an employee or dependent under eighteen
 25 (18) years of age do not exceed one hundred dollars (\$100), the
 26 payment thereof may be made directly to such employee or dependent,
 27 except when the worker's compensation board shall order otherwise.

28 (v) Whenever the aggregate payments of compensation, due to any
 29 person under eighteen (18) years of age, exceed one hundred dollars
 30 (\$100), the payment thereof shall be made to a trustee, appointed by the
 31 circuit or superior court, or to a duly qualified guardian, or, upon the
 32 order of the worker's compensation board, to a parent or to such minor
 33 person. The payment of compensation, due to any person eighteen (18)
 34 years of age or over, may be made directly to such person.

35 ~~(r)~~ (w) If an employee, or a dependent, is mentally incompetent, or
 36 a minor at the time when any right or privilege accrues to the employee
 37 under this chapter, the employee's guardian or trustee may, in the
 38 employee's behalf, claim and exercise such right and privilege.

39 ~~(s)~~ (x) All compensation payments named and provided for in this
 40 section, shall mean and be defined to be for only such occupational
 41 diseases and disabilities therefrom as are proved by competent
 42 evidence, of which there are or have been objective conditions or
 43 symptoms proven, not within the physical or mental control of the
 44 employee. himself.

45 SECTION 4. IC 22-3-7-19 IS AMENDED TO READ AS
 46 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. ~~(a) In computing~~
 47 ~~compensation for temporary total disability, temporary partial~~

disability; and total permanent disability under this law with respect to occupational diseases occurring:

(1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:

(A) not more than one hundred thirty-five dollars (\$135); and

(B) not less than seventy-five dollars (\$75);

(2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:

(A) not more than one hundred fifty-six dollars (\$156); and

(B) not less than seventy-five dollars (\$75);

(3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:

(A) not more than one hundred eighty dollars (\$180); and

(B) not less than seventy-five dollars (\$75);

(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

(A) not more than one hundred ninety-five dollars (\$195); and

(B) not less than seventy-five dollars (\$75);

(5) on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be:

(A) not more than two hundred ten dollars (\$210); and

(B) not less than seventy-five dollars (\$75);

(6) on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be:

(A) not more than two hundred thirty-four dollars (\$234); and

(B) not less than seventy-five dollars (\$75); and

(7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:

(A) not more than two hundred forty-nine dollars (\$249); and

(B) not less than seventy-five dollars (\$75).

(b) (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars (\$267); and

(2) not less than seventy-five dollars (\$75).

(c) (b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars (\$285); and

(2) not less than seventy-five dollars (\$75).

(d) (c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars (\$384); and

(2) not less than seventy-five dollars (\$75).

~~(e)~~ (d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars (\$411); and

(2) not less than seventy-five dollars (\$75).

~~(f)~~ (e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

(1) not more than four hundred forty-one dollars (\$441); and

(2) not less than seventy-five dollars (\$75).

~~(g)~~ (f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars (\$492); and

(2) not less than seventy-five dollars (\$75).

~~(h)~~ (g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars (\$540); and

(2) not less than seventy-five dollars (\$75).

~~(i)~~ (h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars (\$591); and

(2) not less than seventy-five dollars (\$75).

~~(j)~~ (i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars (\$642); and

(2) not less than seventy-five dollars (\$75).

~~(k)~~ (j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars (\$672); and

(B) not less than seventy-five dollars (\$75);

(2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars (\$702); and

- 1 (B) not less than seventy-five dollars (\$75);
 2 (3) with respect to occupational diseases occurring on and after
 3 July 1, 1999, and before July 1, 2000:
 4 (A) not more than seven hundred thirty-two dollars (\$732); and
 5 (B) not less than seventy-five dollars (\$75);
 6 (4) with respect to occupational diseases occurring on and after
 7 July 1, 2000, and before July 1, 2001:
 8 (A) not more than seven hundred sixty-two dollars (\$762); and
 9 (B) not less than seventy-five dollars (\$75);
 10 (5) with respect to disablements occurring on and after July 1,
 11 2001, and before July 1, 2002:
 12 (A) not more than eight hundred twenty-two dollars (\$822);
 13 and
 14 (B) not less than seventy-five dollars (\$75); ~~and~~
 15 (6) with respect to disablements occurring on and after July 1,
 16 2002, **and before July 1, 2007:**
 17 (A) not more than eight hundred eighty-two dollars (\$882);
 18 and
 19 (B) not less than seventy-five dollars (\$75); **and**
 20 **(7) with respect to disablements occurring on and after July**
 21 **1, 2007:**
 22 **(A) not more than nine hundred fifty-four dollars (\$954);**
 23 **and**
 24 **(B) not less than seventy-five dollars (\$75).**
 25 ~~(t)~~ The maximum compensation that shall be paid for occupational
 26 disease and its results under any one ~~(t)~~ or more provisions of this
 27 chapter with respect to disability or death occurring:
 28 ~~(1) on and after July 1, 1974, and before July 1, 1976, shall not~~
 29 ~~exceed forty-five thousand dollars (\$45,000) in any case;~~
 30 ~~(2) on and after July 1, 1976, and before July 1, 1977, shall not~~
 31 ~~exceed fifty-two thousand dollars (\$52,000) in any case;~~
 32 ~~(3) on and after July 1, 1977, and before July 1, 1979, may not~~
 33 ~~exceed sixty thousand dollars (\$60,000) in any case;~~
 34 ~~(4) on and after July 1, 1979, and before July 1, 1980, may not~~
 35 ~~exceed sixty-five thousand dollars (\$65,000) in any case;~~
 36 ~~(5) on and after July 1, 1980, and before July 1, 1983, may not~~
 37 ~~exceed seventy thousand dollars (\$70,000) in any case;~~
 38 ~~(6) on and after July 1, 1983, and before July 1, 1984, may not~~
 39 ~~exceed seventy-eight thousand dollars (\$78,000) in any case; and~~
 40 ~~(7) on and after July 1, 1984, and before July 1, 1985, may not~~
 41 ~~exceed eighty-three thousand dollars (\$83,000) in any case.~~
 42 ~~(m)~~ **(k)** The maximum compensation with respect to disability or
 43 death occurring on and after July 1, 1985, and before July 1, 1986,
 44 which shall be paid for occupational disease and the results thereof
 45 under the provisions of this chapter or under any combination of its
 46 provisions may not exceed eighty-nine thousand dollars (\$89,000) in
 47 any case.

1 (l) The maximum compensation with respect to disability or death
2 occurring on and after July 1, 1986, and before July 1, 1988, which
3 shall be paid for occupational disease and the results thereof under the
4 provisions of this chapter or under any combination of its provisions
5 may not exceed ninety-five thousand dollars (\$95,000) in any case.

6 (m) The maximum compensation with respect to disability or death
7 occurring on and after July 1, 1988, and before July 1, 1989, that shall
8 be paid for occupational disease and the results thereof under this
9 chapter or under any combination of its provisions may not exceed one
10 hundred twenty-eight thousand dollars (\$128,000) in any case.

11 (n) The maximum compensation with respect to disability or death
12 occurring on and after July 1, 1989, and before July 1, 1990, that shall
13 be paid for occupational disease and the results thereof under this
14 chapter or under any combination of its provisions may not exceed one
15 hundred thirty-seven thousand dollars (\$137,000) in any case.

16 (o) The maximum compensation with respect to disability or death
17 occurring on and after July 1, 1990, and before July 1, 1991, that shall
18 be paid for occupational disease and the results thereof under this
19 chapter or under any combination of its provisions may not exceed one
20 hundred forty-seven thousand dollars (\$147,000) in any case.

21 (p) The maximum compensation with respect to disability or death
22 occurring on and after July 1, 1991, and before July 1, 1992, that shall
23 be paid for occupational disease and the results thereof under this
24 chapter or under any combination of the provisions of this chapter may
25 not exceed one hundred sixty-four thousand dollars (\$164,000) in any
26 case.

27 (q) The maximum compensation with respect to disability or death
28 occurring on and after July 1, 1992, and before July 1, 1993, that shall
29 be paid for occupational disease and the results thereof under this
30 chapter or under any combination of the provisions of this chapter may
31 not exceed one hundred eighty thousand dollars (\$180,000) in any case.

32 (r) The maximum compensation with respect to disability or death
33 occurring on and after July 1, 1993, and before July 1, 1994, that shall
34 be paid for occupational disease and the results thereof under this
35 chapter or under any combination of the provisions of this chapter may
36 not exceed one hundred ninety-seven thousand dollars (\$197,000) in
37 any case.

38 (s) The maximum compensation with respect to disability or death
39 occurring on and after July 1, 1994, and before July 1, 1997, that shall
40 be paid for occupational disease and the results thereof under this
41 chapter or under any combination of the provisions of this chapter may
42 not exceed two hundred fourteen thousand dollars (\$214,000) in any
43 case.

44 (t) The maximum compensation that shall be paid for occupational
45 disease and the results of an occupational disease under this chapter or
46 under any combination of the provisions of this chapter may not exceed
47 the following amounts in any case:

(1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).

(2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).

(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).

(4) With respect to disability or death occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars (\$254,000).

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).

(6) With respect to disability or death occurring on and after July 1, 2002, **and before July 1, 2007**, two hundred ninety-four thousand dollars (\$294,000).

(7) With respect to disability or death occurring on and after July 1, 2007, three hundred eighteen thousand dollars (\$318,000).

(u) For all disabilities occurring before July 1, 1985, "average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

1 ~~(v)~~ **(u)** For all disabilities occurring on and after July 1, 1985,
 2 "average weekly wages" means the earnings of the injured employee
 3 during the period of fifty-two (52) weeks immediately preceding the
 4 disability divided by fifty-two (52). If the employee lost seven (7) or
 5 more calendar days during the period, although not in the same week,
 6 then the earnings for the remainder of the fifty-two (52) weeks shall be
 7 divided by the number of weeks and parts of weeks remaining after the
 8 time lost has been deducted. If employment before the date of disability
 9 extended over a period of less than fifty-two (52) weeks, the method of
 10 dividing the earnings during that period by the number of weeks and
 11 parts of weeks during which the employee earned wages shall be
 12 followed if results just and fair to both parties will be obtained. If by
 13 reason of the shortness of the time during which the employee has been
 14 in the employment of the employer or of the casual nature or terms of
 15 the employment it is impracticable to compute the average weekly
 16 wages for the employee, the employee's average weekly wages shall be
 17 considered to be the average weekly amount that, during the fifty-two
 18 (52) weeks before the date of disability, was being earned by a person
 19 in the same grade employed at the same work by the same employer or,
 20 if there is no person so employed, by a person in the same grade
 21 employed in that same class of employment in the same district.
 22 Whenever allowances of any character are made to an employee instead
 23 of wages or a specified part of the wage contract, they shall be
 24 considered a part of the employee's earnings.

25 ~~(w)~~ **(v)** The provisions of this article may not be construed to result
 26 in an award of benefits in which the number of weeks paid or to be paid
 27 for temporary total disability, temporary partial disability, or permanent
 28 total disability benefits combined exceeds five hundred (500) weeks.
 29 This section shall not be construed to prevent a person from applying
 30 for an award under IC 22-3-3-13. However, in case of permanent total
 31 disability resulting from a disablement occurring on or after January 1,
 32 1998, the minimum total benefit shall not be less than seventy-five
 33 thousand dollars (\$75,000)."

34 Delete pages 17 through 60.

35 Page 61, delete lines 1 through 31.

36 Renumber all SECTIONS consecutively.

(Reference is to HB 1307 as printed January 20, 2006.)

Representative Stilwell